


Red or Blue text indicates a link to an endnote or web link, move  to colored text and click to open.
All forms references are available on line at www.disabilities.ri.gov

Chapter B Request For A Waiver Of The Accessibility Standard For State Leased Facilities

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I. STATUTORY AUTHORITY

RI GL 37-8-15 & 37-8-15.1 Public Buildings – Access for people with Disabilities and Accessibility of leased or rented facilities for people with disabilities and RIGL 42-51-6.1 Governor’s Commission on Disabilities - Hearing Boards ¹

II. DEFINITIONS

A. The terms “Governmental body”², “Public agency”³, and “State”⁴ are defined in RI General Law 37-2-7.

B. “Accessibility for People with Disabilities Standard” means: the provisions of the RI State Building Code ⁵ and the applicable federal accessibility code(s)⁶

C. “The Commission” shall mean the [Governor’s Commission on Disabilities](#).

D. “Commissioner” shall mean a member of the Governor’s Commission on Disabilities appointed by the Governor, pursuant to RIGL 42-51-2.

E. “Hearing Board” shall mean the board of five (5) commissioners appointed by the Commission Chairperson, pursuant to RIGL 42-51-6.1, as the hearing board for the purpose of conducting hearings and rendering decisions on matters relating to the provisions of chapter 87 of title 42 and sections 37-8-15.1 and 42-46-13 within the jurisdiction of the commission.

III. REQUESTING WAVIER

A governmental body or public agency requesting a waiver to the Accessibility for People with Disabilities Standards for facilities leased by

the State of Rhode Island must submit a Waiver of Accessibility of Leased or Rented Facilities for People with Disabilities, RIGCD Form B to the Hearing Board⁷. The State Property Management Office will notify the department of the time, date, and location of the public hearing on their request.

IV. REQUEST FORM

The request for the waiver must include:

- A. A detailed description of all programs, activities, and services provided and employment accessibility at the site;
- B. A description of each accessibility barrier a waiver is requested for and the reason for the request;
- C. A list of alternative sites for these programs and the reason each was rejected; and
- D. A detailed plan for providing complete access to all programs, activities, and services and employment opportunities, if the waiver is granted. This plan should include:
 - 1. Procedures for informing the public, employees, clients and beneficiaries with disabilities how they will be serviced;
 - 2. The location of any relocated services or duplicate services and their distance from the facility the waiver has been requested for; and
 - 3. A description of any relocated service, responds to the following questions:
 - a) Will it only service individuals with disabilities?
 - b) Will it provide the identical range of services as the original site?
 - c) Will it provide services during the same hours?
- E. No waiver will be granted unless the request form is completed. The initial facilities review completed by the State Building Commissioner's Office⁸ must be attached to the request.
- F. The request shall be sent to the Governor's Commission on Disabilities.

V. PUBLIC HEARING

The Hearing Board shall conduct a public hearing. A representative of the governmental body or public agency requesting the waiver and all

governmental bodies or public agencies occupying space within the area covered by the request must attend the public hearing, and be prepared to respond to questions from the committee members.

VI. APPROVAL CRITERIA

The Hearing Board may only grant a waiver when:

- A. It would not operationally serve to deny any individual with a disability access to a service or program operated by the governmental body or public agency;
- B. It would not operationally serve to deny an employee with a disability or job applicant with a disability employment or advancement in that governmental body or public agency; and
- C. Total compliance with the disability accessibility provisions of the state building code was structurally infeasible.

VII. FORMS

The Commission's staff shall prepare and revise the forms referenced above, as necessary.

VIII. ENDNOTES

These endnotes are the text of several general laws and are provided for clarification and are not part of the regulation. They are subject to revision, as amended by the General Assembly.

¹ History: Rule proposed on August 25, 1992 Public Hearing on September 21, 1992 Adopted on September 26, 1992 Effective on October 15, 1992 Technical Revisions on October 10, 1997 Advertised October 21, 1999 Public Hearing November 22, 1999 Amendment adopted November 22, 1999 Effective January 3, 2000 Technical amendments adopted September 13, 2003
42-51-6.1. Governor's Commission on Disabilities - Hearing boards. –

(1) The commission's chairperson shall appoint five (5) commissioners as the hearing board for the purpose of conducting hearings and rendering decisions on matters relating to the provisions of chapter 87 of title 42 and sections 37-8-15.1 and 42-46-13 within the jurisdiction of the commission.

(2) Three (3) commissioners shall constitute a quorum of a hearing board.

(3) The hearing board is empowered to:

(i) Receive, investigate, and act upon charges of unlawful practices within its jurisdiction; and

(ii) In connection with any investigation or hearing held on any matter within its jurisdiction to hold hearings, administer oaths, take the testimony of any person under oath, and to require the production for examination of any books and papers relating to any matter under investigation or in question before the hearing board.

² RIGL 37-2-7 (11) "Governmental body" shall mean any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, including, without limitation, the board of governors for higher education except for purchases which are funded by restricted, sponsored or auxiliary monies for the period through July 1, 1999, as provided for in subdivision (16) of this section, and board of regents - elementary and secondary education or other establishment of the executive, legislative or judicial branch of the state.

³ RIGL 37-2-7 (16) "Public agency" shall mean the Rhode Island industrial recreational building authority, the Rhode Island economic development corporation, the Rhode Island industrial facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island public transit authority, the Rhode Island student loan authority, the Howard development corporation, the water resources board corporate, the Rhode Island health and education building corporation, the Rhode Island higher education assistance authority, the Rhode Island turnpike and bridge authority, the Blackstone Valley district commission, the Narragansett Bay water quality management district commission, Rhode Island telecommunications authority, the convention center authority, Channel 36 foundation, the board of governors for higher education for all purchases which are funded by restricted, sponsored or auxiliary monies, their successors and assigns, and any other body corporate and politic which has been or will be created or established within this state excepting cities and towns. The board of governors for higher education for all purchases which are funded by restricted, sponsored or auxiliary monies shall be included in the definition of "public agency" only through July 1, 1999.

⁴ RIGL 37-2-7 (22) "State" shall mean the state of Rhode Island and any of its departments or agencies and public agencies.

⁵ RIGL 23-27.3, SBC 14, SBC 15 and or SBC 17

⁶ Uniform Federal Accessibility Standard, Americans with Disabilities Act Accessibility Guideline, or the Fair Housing Accessibility Standard.

⁷ Governor's Commission on Disabilities

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⁸ State Building Commission

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